

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application by Southwest
Gas Corporation for Authorization to Establish a
Memorandum Account. (U 905 G)

Application 05-12-039
(Filed December 30, 2005)

**OPINION AUTHORIZING SOUTHWEST GAS CORPORATION TO
ESTABLISH A MEMORANDUM ACCOUNT****Summary**

This order authorizes Southwest Gas Corporation (Southwest) to establish a memorandum account to provide for the recovery of revenue shortfalls¹ resulting from a delay in the implementation of the 2006 attrition increase authorized in Decision (D.) 04-03-034.

No responses to Southwest's application have been received.

Background

D.04-03-034 adopted March 16, 2004, authorized Southwest to request an attrition increase for 2006.² On October 31, 2005, Southwest filed Advice Letter 747 requesting a 2006 attrition increase with an effective date of January 1, 2006. The attrition increase included an adjustment for customer growth. On

¹ A revenue shortfall is the difference between current rates and any new rates ultimately authorized by the Commission.

² See, pp. 62-63, and Ordering Paragraph 11, p. 93.

November 21, 2005, The Division of Ratepayer Advocates (DRA), formerly known as the Office of Ratepayer Advocates protested Advice Letter 747 stating that the adjustment for customer growth was not authorized in D.04-03-034. As a result of the DRA protest, on November 21, 2005, the Commission's Energy Division issued a Suspension Notice informing Southwest that Advice Letter 747 could be delayed up to 300 days. On November 23, 2005, Southwest filed Advice letter 747-A to address DRA's protest, but DRA protested Advice Letter 747-A arguing that the adjustment for customer growth had not been corrected.

On December 30, 2005, Southwest filed Application (A.) 05-12-039 (Application) requesting authorization to establish a memorandum account, the Base Margin Shortfall Memorandum Account (BMSMA),³ to prevent any permanent revenue recovery shortfall as a result of a delay in Commission authorization of a 2006 attrition allowance. Southwest states the memorandum account would include no more than those revenues associated with Southwest's proposed 2006 attrition adjustment set forth in Advice Letter 747-A. Southwest contends that without the BMSMA it would never be made whole for any revenue recovery shortfall from January 1, 2006, and the Commission's approval of 2006 attrition rates.

Discussion

As Southwest explains, the Commission has authorized the establishment of memorandum accounts in prior proceedings to track potential revenue

³ Southwest's Application includes the proposed tariff sheets to implement the BMSMA and the accounting procedures Southwest proposes to employ to administer the BMSMA.

shortfalls or over-collections due to delays in cost-of-service proceedings.⁴ In addition, we note that in Southwest's last general rate case, (A.02-02-012), D.03-05-032 authorized Southwest to establish a memorandum account to record margin revenue shortfalls due to a delay in requested relief in that proceeding.

Southwest states that under no circumstances will it recover from its customers any level of revenue greater than the level determined by the Commission to be just and reasonable. Furthermore, if this Application is denied, Southwest will not be made whole for any revenue recovery from January 1, 2006, through the date when the Commission issues a resolution establishing Southwest's 2006 attrition rates. We note that as the effective date of today's decision authorizing the BMSMA is beyond January 1, 2006, Southwest will not receive a portion of the attrition allowance which would otherwise have been effective in rates beginning January 1, 2006.

As we have previously stated in our discussion authorizing a memorandum account in A.02-02-012,⁵ ratepayers should not gain from the deferral of rate increases where such gain would be at the expense of the utility and its shareholders. Rather relief that leaves ratepayers and shareholders indifferent to the actual date of the Commission's revenue requirement decision is fair from the perspective of both ratepayers and shareholders. (84 CPUC 2d 253 (1998).)

Southwest will not unduly benefit from our authorization to establish the BMSMA. Southwest must still bear the burden of demonstrating the

⁴ See, D.04-11-015 for Pacific Gas and Electric Company and D.03-12-057 for Southern California Gas Company.

⁵ See, D.03-05-032, p. 6.

reasonableness of any amounts in the BMSMA that it seeks to amortize.

Although Southwest requests that the proposed relief it seeks in its Application be effective on January 1, 2006, the contemplated beginning of the 2006 attrition year, the BMSMA will be effective on the date of today's decision.

We observe that D.04-03-034 anticipated that Southwest would file a request for a 2006 attrition allowance and that Southwest timely filed its 2006 attrition request. Nevertheless, resolution of disputes regarding this attrition request may potentially take many months as explained in the Energy Division's Suspension Notice. Although attrition allowance requests are generally reviewed and completed so that the utility receives an attrition allowance at the beginning of the year, adverse effects of procedural delays may occur. Thus, if circumstances require, it may be appropriate to establish alternative methods to address such delays, including establishing balancing accounts.

Our primary consideration in allowing Southwest to establish the BMSMA is to advance our previously stated policy objective of holding both utility shareholders and ratepayers harmless from any required delays in processing a rate proceeding.

By issuing this decision, we are not prejudging the results of the resolution of Southwest's 2006 attrition allowance request or making any change in authorized rates; nor are we implicating the provisions of Pub. Util. Code § 728. Further, this decision should not be used as precedent in any future proceeding.⁶

⁶ Section 728 provides that if the Commission, after a hearing, finds that rates are insufficient, the Commission shall determine reasonable and sufficient rates.

Categorization and Need for Hearings

In Resolution ALJ 176-3165 dated January 12, 2006, the Commission preliminarily categorized this Application as ratesetting, and preliminarily determined that hearings were not necessary. No party has filed a response to the Application. Given this status, public hearing is not necessary and the preliminary determinations made in Resolution 176-3165 with regard to categorization and hearings should not be altered.

Waiver of Comments

Since this proceeding is uncontested and we grant the relief requested, pursuant to Section 311(g)(2), the otherwise applicable 30-day period for review and comment is waived.

Assignment of Proceeding

John A. Bohn is the Assigned Commissioner and Bruce DeBerry is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Resolution of Southwest's 2006 attrition allowance request may be significantly delayed. This delay may be as great as 300 days beyond January 1, 2006, the beginning of the 2006 attrition year.
2. Southwest's BMSMA, as proposed, accomplishes the Company's objective to offset the financial consequences of the difference between the date the Commission adopts an attrition allowance, and the date that approval would have been expected prior to the 2006 attrition year.
3. Southwest's, BMSMA, as proposed, is consistent with our objective to leave both ratepayers and shareholders essentially indifferent to the precise date that the attrition allowance may be adopted.

Conclusions of Law

1. Southwest should be allowed to establish the BMSMA to track revenue shortfalls.
2. The authorization granted herein does not bind the Commission to grant any revenue requirement, or any portion thereof, as such a grant can only be made upon the development of a complete evidentiary record, and full and fair consideration of the record by the Commission.
3. Pub. Util. Code § 728 is not implicated by this decision.
4. The effective date of establishing the BMSMA shall be the effective date of today's decision.

O R D E R**IT IS ORDERED** that:

1. Southwest Gas Corporation (Southwest) is authorized to establish the Base Margin Shortfall Memorandum Account (BMSMA) to record margin revenue shortfalls directly related to a delay in the implementation of new rates to be authorized by the Commission for Southwest's 2006 attrition year. By taking such action we are not prejudging the requested rate increase in Southwest's 2006 attrition year request, or the actual changes in authorized rates, if any.
2. The BMSMA shall be consistent with the proposed tariff sheets filed with its Application for authorization to establish the BMSMA filed December 30, 2005, except that the entries made in item 21C, GCIM Benchmark, shall be made on a monthly basis beginning with the effective date of today's decision.
3. The authority being granted in Ordering Paragraph 1 shall not be used as precedent in any future proceeding.

4. Southwest shall provide notice to its customers that any change in rates resulting from this application shall become effective with the effective date of today's decision. Notice shall be provided via a bill insert and shall be approved by the Commission's Public Advisor Office prior to mailing.

5. This order is a final determination that a hearing is not needed in this proceeding.

6. Application 05-12-039 is closed.

This order is effective today.

Dated _____, at San Francisco, California.